S. W. 824. An injunction was refused on the same ground in *Cochran* v. *McCleary*, 22 Iowa 75. Equity will enjoin the ouster of an officer without a proper hearing at law, and, without trying the title to an office as between rival claimants, will protect its enjoyment. *Kerr* v. *Trego*, 47 Pa. 292; see 20 MICH. L. REV. 238. But it is clear that in the principal case the court decided upon the disputed right of the complainant to exercise certain duties claimed as appurtenant to his office, and the assumption of jurisdiction as to this political question can be justified, in view of equity's traditional attitude toward political questions, only upon the ground given that the legal remedy of *quo warranto* is not available for the purpose.

EQUITY—UNCONSCIONABLE CONTRACT CANCELED.—The plaintiff had a deposit in a trust company of $22,500, of which he had lost all recollection because of an illness which had resulted in a loss of memory. A company official who knew of the plaintiff's mental condition, and also, by reason of his connection with the company, of the deposit, concealed from the plaintiff his official connection and induced him to contract to pay nearly one-half of the sum as consideration for revealing its whereabouts. Later the plaintiff sued for cancellation of the contract. There was no claim of mental incapacity to contract. *Held*, because of the abnormal condition of the plaintiff's mind, and also because of the semi-confidential position which the defendant occupied with respect to the plaintiff, equity would give the desired relief. *Gierth* v. *Fidelity Trust Company* (N. J., 1921), 115 Atl. 397.

The case was well decided on either of the two bases suggested by the court. As to the effect of the plaintiff's mental condition, although there was no claim that he was mentally incompetent to contract, yet his illness had materially weakened his mental powers and impaired his power of self-protection. In such cases, especially when coupled with inadequacy of consideration, equity will give relief, even though neither the mental impairment nor the inadequacy of consideration, standing alone, would suffice. Courts are particularly willing to refuse specific performance against a defendant so afflicted. *Blackwilder* v. *Loveless*, 21 Ala. 371. But it is also well settled that, in cases of sufficient hardship, affirmative relief by way of cancellation will be given. *Mann* v. *Butterly*, 21 Vt. 326; *Maddox* v. *Simmons*, 31 Ga. 512. The decision in the principal case is warranted on this ground. The other ground suggested by the court, namely, the defendant's semi-confidential position with respect to the plaintiff, presents more difficulty. The case is somewhat analogous to those cases in which the directors of corporations have purchased shares from non-official shareholders, either concealing their identity as directors or withholding information material to the value of the shares. The earlier cases refused to recognize the "duty to disclose" under such circumstances. In 1847 Chief Justice Shaw said, "The directors are not the bailees, agents, factors, or trustees of the individual stockholders." *Smith* v. *Hurd*, 12 Met. (Mass.) 371. But in 1904, in *Strong* v. *Repide*, 213 U. S. 419, the Supreme Court, recognizing that the earlier rule opened the door to most inequitable impositions, decided

that, "If it were conceded that the ordinary relations between directors and shareholders are not of such a fiduciary nature as to make it the duty of the director to disclose to the shareholder general knowledge which he possesses in regard to the shares before he purchases, yet there are cases where by reason of the special facts the duty does exist." A few cases of a still later date have gone even further and have held that there is a duty to disclose, though no "special facts" exist. *Dawson* v. *National Life Ins. Co.*, 176 Ia. 362. See 8 MICH. L. REV. 267, and 19 MICH. L. REV. 698. In the principal case the defendant's official connection with the trust company might well place him in the same semi-fiduciary position as that of the director. A state of facts somewhat similar to those of the principal case was presented in *Jones* v. *Stewart*, 62 Neb. 207. The plaintiff had forgotten the existence of a certain bank deposit, and the defendant, who knew about it, though he was not connected with the bank, induced the plaintiff, as consideration for the conveyance of some relatively worthless land, to assign the deposit to him by executing the necessary papers without reading them. When the plaintiff learned what he had done he sued the defendant in case for deceit. A decision for the defendant was predicated upon the fact that the parties had contracted on equal terms and that there was no fiduciary relationship between them. The plaintiff's position was somewhat weaker than that of the plaintiff in the principal case because there was no evidence of an abnormal mental condition, nor was the defendant connected in any way with the bank. So, in spite of the imposition on the plaintiff which would have made a decree granting relief seem equitable, the two cases may be distinguished.

EVIDENCE—CHARACTER WITNESSES IN SUPPORT OF VERACITY.—Testimony of the accused, who was his own witness in a trial for robbery, was directly contradictory to the testimony of a witness for the state. *Held*, accused was entitled to support his evidence by calling character witnesses to sustain his general reputation for truth and veracity. *Smith* v. *State* (Okla. Cr. App., 1922), 202 Pac. 1046.

The court takes the broad stand that when the veracity of the witness is *in any manner* called into question character witnesses in support of same may be introduced. The only authorities cited are three prior decisions by the same court, *Friel* v. *State*, 6 Okla. Cr. 532; *Gilbert* v. *State*, 8 Okla. Cr. 329; *Davidson* v. *State*, 15 Okla. Cr. 85; and in only one of the three (*Gilbert* v. *State*) is the question directly raised and discussed. None of these cases discuss the earlier *contra* holding by the supreme court of the state, which at that time was the court of last resort in criminal as well as in civil appeals. *First National Bank* v. *Blakeman*, 19 Okla. 106. This may result in having one rule enforced in criminal cases and another in civil cases. As a general rule, however, no such distinction is recognized. There certainly is no logical basis for it. The same objections so clearly pointed out in *Tedens* v. *Schumers*, 112 Ill. 263, 266, apply in both cases, viz., that the trial would become interminable, and the main issues befogged perhaps